

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: AIRPORT

AGENDA DATE: April 26, 2011

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombraña/780-4724

DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

This is a Resolution to allow that the City Manager be authorized to sign a Second Amendment to the Air Cargo Center Agreement by and between the City of El Paso and DHL Express (USA), Inc. to allow an extension of the existing Lease at the existing monthly rental of \$7,711.33 for four months for the facility located at 301 George Perry Blvd., Suite G, El Paso, Texas effective May 1, 2011.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

DHL Express (USA), Inc. ("DHL") has been an EPIA tenant since 2000 after signing the Air Cargo Center Agreement with the City of El Paso for space at the then new Air Cargo facility effective August 1, 2000 through October 31, 2005 with one five (5) year Option effective through October 31, 2010.

A First Amendment to the Lease extended the term of the Agreement through April 30, 2011.

DHL is now requesting a Second Amendment to the Lease thereby extending the existing Lease for four (4) additional months. DHL is in the process of negotiating a new 5 year Air Cargo Lease with the City and extra time is needed to prepare the new Lease, whose commencement date of September 1, 2011 will concur with the commencement date of the new signatory Airline leases.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, DHL's First Amendment of Air Cargo Center Agreement dated February 8, 2011.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A Revenue generating.

BOARD / COMMISSION ACTION: N/A

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Second Amendment to the Air Cargo Center Agreement by and between the City of El Paso and DHL Express (USA), Inc. to allow an option to extend the lease at 301 George Perry Blvd., Suite G, El Paso, Texas, for an additional four (4) months.

APPROVED the _____ day of _____ 2011.

CITY OF EL PASO

ATTEST:

John F. Cook
Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña, A.A.E.
Director of Aviation

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**SECOND AMENDMENT TO
AIR CARGO CENTER AGREEMENT**

This Second Amendment to the Air Cargo Center Agreement by and between the City of El Paso, a municipal corporation existing under the laws of the State of Texas, ("Lessor") and DHL Express (USA), Inc., a corporation organized and existing under the laws of the State of Ohio, ("Lessee") is made and entered into this ____ day of _____, 2011.

WHEREAS, Lessor entered into an Air Cargo Center Agreement with ABX Air, Inc., with an effective date of August 1, 2000 ("Agreement"), for the following described leased premises located at 301 George Perry Blvd., El Paso, Texas (the "Premises"):

- A. That certain office and warehouse space containing 6,292 square feet, more or less, in the Air Cargo Center, 301 George Perry Blvd., Suite G, for Lessee's exclusive use;
- B. The exclusive right to use the loading dock and 2600 square feet, more or less, of vehicle parking space directly in front of the Air Cargo Center;
- C. The non-exclusive right to use 53,360 square feet, more or less, of the aircraft parking apron and ground service equipment parking apron directly behind said Air Cargo Center; and
- D. The non-exclusive right to use a portion of the vehicle parking area, and the roadway, located in front of and adjacent to the Air Cargo Center, such portion to be commensurate with Lessee's share of warehouse and office space as to that leased to the tenants that share common use of this vehicle parking area;

WHEREAS, on September 2, 2003, the Lessor and ABX Air, Inc. executed a Lessor's Approval of Assignment of the Agreement from ABX Air, Inc. to Airbone Express, Inc.;

WHEREAS, effective January 1, 2005, Airbone Express, Inc. was merged into DHL Express (USA), Inc. ("Lessee");

WHEREAS, Lessee has exercised all options under the Agreement;

WHEREAS, on February 8, 2011, Lessor and Lessee entered into a First Amendment to Air Cargo Center Agreement which extended the term of the Agreement through April 30, 2011, and

WHEREAS, Lessor and Lessee would like to extend the term of the Agreement for an additional four (4) months;

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Article IV, Term of Leasehold, is amended to add *a new third paragraph which reflects adding* an additional option to extend the Lease under Section 4.02 as follows:

Section 4.02 Option to Extend
(third paragraph)

In the event that Lessee is not in default of any terms of this Lease during the Second Option Period, Lessee shall have the option to extend the Lease for one (1) additional term of four (4) months ("Third Option Period"). Lessor and Lessee acknowledge that Lessee is exercising the Third Option Period by the complete execution of this Second Amendment, and the rental for the Third Option Period shall be as set forth in Article V.

2. Article V, Rentals, is amended to add a rental rate for the Third Option Period under Section 5.01 as follows:

The Rental for the Third Option Period shall be calculated upon the following annual rentals:

6,292 Sq. ft. of Office and Warehouse Space at \$8.25/sq.ft./annum = \$51,909.00/yr.

2,600 Sq. ft. of Vehicle Parking Space at \$0.726/sq.ft./annum = \$1,887.60/yr.

53,360 Sq. ft. of Aircraft Parking and Apron and Ground Service Equipment Parking
Apron at \$0.726 sq.ft./annum = \$38,739.36/yr.

Therefore, the rental for the Third Option Period shall be \$30,845.32 for the period beginning May 1, 2011 and ending August 31, 2011.

3. Regardless of the date executed, the Effective Date of this Second Amendment to the Air Cargo Center Agreement shall be May 1, 2011.
4. Except as expressly modified herein, all other terms and conditions of the Agreement and the First and Second Amendment to the Agreement shall remain in full force and effect and shall remain as written.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, this First Amendment to the Air Cargo Center Agreement has been approved by the parties hereto as of the dated first noted above.

LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Theresa Cullen
Deputy City Attorney

Monica Lombraña, A. A. E.
Director of Aviation

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____ 2011 by Joyce A. Wilson, as City Manager of the City of El Paso (Lessor).

Notary Public, State of Texas

My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Doc. No.: 63496v1 (4/13/11)
Doc. Name: K-11-2nd Amend DHL

ATTEST:

Reginald Dery

LESSEE:

DHL EXPRESS (USA), INC.

By: *Robert J. Ingus*
Printed Name: Robert J. Ingus
Title: Director Real Estate

ACKNOWLEDGMENT

STATE OF FLORIDA)
COUNTY OF BROWARD)

This instrument was acknowledged before me on this 15th day of April 2011
by ROBERT J. INGUS as DIRECTOR REAL ESTATE of DHL Express
(USA), Inc. (Lessee).

Carol Park
Notary Public, State of FLORIDA

My Commission Expires:
2-13-14

